IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 7TH AUGUST 2007 / 16TH SRAVANA 1929

WP(C).No. 34551 of 2003(L)

PETITIONER:

K.SHANMUGHAN PILLAI, AGED 59 YEARS,
S/O.KRISHNA PILLAI, VILLAGE ASSISTANT(RETIRED),
C.M.C.II, MANGALYA PO. CHERTHALA, ALAPPUZHA DIST.

BY ADV. SRI.V.A.MUHAMMED
SRI.K.E.HAMZA

RESPONDENTS:
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1. **THE STATE OF KERALA REP. BY THE SECRETARY TO GOVERNMENT, REVENUE DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.**

2. **THE COMMISSIONER OF LAND REVENUE, TRIVANDRUM.**

3. **THE DISTRICT COLLECTOR, KOTTAYAM.**

4. **THE SPECIAL DEPUTY COLLECTOR,(LA.) COLLECTORATE, KOTTAYAM.**

5. **THE TAHSILDAR, VAIKKOM, KOTTAYAM.**

BY GOVERNMENT PLEADER SMT.T.B.RAMANI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO. 34551/2003

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE PROCEEDINGS OF THE 3RD RESPONDENT DT. 2.6.84.

EXT.P2:- COPY OF THE REPRESENTATION OF THE PETITIONER DT. 12.12.1997.

EXT.P3:- COPY OF THE -DO- -DO- DT. 9.2.95.

EXT.P4:- COPY OF THE -DO- DT. 8.2.03.

EXT.P5:- COPY OF THE ORDER NO.30428/C3/2003/RD OF THE 1ST RESPONDENT DT. 06.9.2003.

/TRUE COPY/

P.A. TO JUDGE

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THOTTATHIL B.RADHAKRISHNAN, J.

W.P(C).No.34551 OF 2003

Dated this the 7th day of August, 2007

JUDGMENT

The petitioner's claim for higher grade has been rejected by the Government as per the impugned Ext.P5 on the ground that higher grade was granted on 8.2.1992, without taking into consideration that, he had relinquished his promotion, though temporarily, till 9.2.1995 and the application for restoring the earlier relinquished promotion was filed only on 9.2.1995. Therefore, as on the date on which he was granted 25 years time bound higher grade, he was a person, who had relinquished a regular promotion. If that be so, the Government cannot be found fault with for having applied paragraph 10 (x) of G.O.(P). 480/89/Fin. dated 1.11.1989 which provides that time bound higher grade promotion will not be given for those who have relinquished promotions. That provision in the G.O. is part of the executive decision of the Government governing the field of grant of higher grade and does not run contrary to any

provisions of the statutory rules. The writ petition, therefore, fails and is accordingly dismissed. No costs.

Sd/-

THOTTATHIL B.RADHAKRISHNAN,
Judge

kkb.